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Carol X Weakley 11/27/2006 03:30:43 PM From DB/Inbox: Carol X Weakley

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DISSEMINATION: ECON

CHARGE: PROG

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C O N F I D E N T I A L SECTION 01 OF 03 TEL AVIV 004579

SIPDIS

E.O. 12958: DECL: 11/21/2016

TAGS: PREL PGOV KWBG IS

SUBJECT: PEACE NOW: NEARLY 40 PERCENT OF WEST BANK

SETTLEMENTS BUILT ON PALESTINIAN LAND

Classified By: Ambassador Richard H. Jones for reasons 1.4 (b) and (d)

¶1. (C) Summary: Peace Now's latest report on West Bank settlement construction on Palestinian land is a harsh indictment of Israel's settlement enterprise. The report asserts that Palestinians own approximately 40 percent of the land on which settlements sit today, and that since 1967, successive Israeli governments have initiated new settlements and permitted the expansion of existing ones on Palestinian-owned land. According to Peace Now's findings, 130 settlements were built --partially or entirely -- on Palestinian land. Peace Now claims that successive Israeli governments have continuously supported settlement growth in violation of Israeli law, and the 1979 High Court of Justice (HCJ) precedent blocking Israel from confiscating land for settlements under the guise of "military purposes." The organization states that the data on Palestinian land comes from a 2004 Civil Administration report and had previously served as a reference for Talia Sasson's 2005 report on illegal outpost construction. Below are the highlights of the Peace Now report. End Summary.

Key Findings

¶2. (U) Peace Now's report indicates that Palestinian property rights in the West Bank have been systematically violated for settlement construction and identifies 130 settlements that were built partially or fully on Palestinian land. Peace Now further claims that the GOI has violated its own laws in the West Bank through the confiscation of private Palestinian property and the building of settlements upon that land. The report states:

-- Nearly 40 percent of the total area of the settlements, outposts, and settlement industrial zones in the West Bank is

comprised of privately-owned Palestinian land. The total area of settlements, outposts, and settler industrial zones in the West Bank is comprised of 38.76 percent private Palestinian land, 5.67 percent survey land, 1.26 percent Jewish-owned land, and 54.31 percent state land.

-- Palestinians own more than 40 percent of the land in settlement blocs west of the separation barrier, including 86.4 percent of Ma'ale Adummim, 44.3 percent of Gi'vat Ze'ev, 47.7 percent of Qedumim, and 35.1 percent of Ariel.

-- Settlements West of the Barrier: Settler sites located west of the barrier are comprised of 41.42 percent private Palestinian land, 2.47 percent survey land, 2.5 percent Jewish-owned land, and 53.61 percent state land.

-- Settlements East of the Barrier: Settler sites located east of the barrier are comprised of 36.4 percent private Palestinian land, 8.5 percent survey land, 0.16 percent Jewish-owned land, and 54.93 percent state land.

-- Built-up Area of Settlements: Peace Now asserts that nearly 30 percent of the total built-up areas of the settlements are built on privately-owned Palestinian land. The aggregate built-up area of all settler sites is comprised of 28.69 percent private Palestinian land, 3.09 percent survey land, 1.67 percent Jewish-owned land, and 66.55 percent state land. The figures for built-up area calculations include only the area of buildings, roads, and developed parts of the settlements. It does not include all of the land under the settlements' control.

-- Approximately 3,435 buildings in settlements are constructed on land that is privately owned by Palestinians. (Note: This number represents the number of whole buildings on Palestinian-owned land. This does not capture the number of housing units on Palestinian land. End note.) Peace Now states that these 3,435 buildings are from data from a few years ago. Since then, Peace Now states that thousands more buildings have been constructed in the West Bank, some of them on privately owned Palestinian land.

-- Approximately 5.7 percent of settlement territory is survey land and 2.5 percent of settlement blocs are located on survey land.

-- Only a small percentage of settlement land was privately purchased.

-- More than 50 percent of land on which settlements have been constructed has been declared "state land," often through controversial means and mostly for the benefit of settlements.

Definitions

¶3. (U) Below are other terms and definitions used in Peace Now's report:

-- Survey Land: Land whose ownership is still being examined and whose standing still has to be determined. Under Israeli law, survey land cannot be developed legally, either by the State or by the Palestinian claiming ownership.

-- Jewish-owned Land: West Bank property purchased by Jews.

--State Land: Land that has been declared as land managed by the State. (Note: Peace Now categorizes registered Palestinian-owned land that was seized by Israel before 1979 as private Palestinian property if the land was used for settlements. See discussion of the 1979 Elon More case below. End note.)

1979 Elon More Case and Defining
Palestinian Land Ownership

¶4. (C) According to Peace Now, since 1967, Israel has often used Ottoman legislation (dating back to the middle of the 19th century) to declare land as "state land." According to Ottoman era law, all lands are considered to be "state land" unless proven otherwise. To formally register land as private property, one must cultivate it for at least ten years. In 1968, Israel stopped the land registration process via injunction by the Occupied Territories' military governor. This left thousands of square kilometers of agricultural land unregistered, which was eventually declared "state land" for the sole use of Israel. Peace Now's Dror Etkes told econoff on November 20 that only one-third of West Bank land is actually registered.

¶5. (C) In addition to much of the West Bank being designated as "state land," Peace Now says that the GOI's main means of acquiring private land was "seizure for military purposes." Many of the settlements established between 1967 and 1979 were built on land that had been seized to build settlements.

However, the HCJ decision in the 1979 Elon More Case created a legal precedent that the establishment of settlements on Palestinian-owned land seized by the State for "military purposes" was illegal, consequently terminating this particular Israeli practice of obtaining land for settlement construction.

¶6. (C) Based on Ottoman law (which is still valid in the Occupied Territories) and the 1979 HCJ Elon More ruling, Peace Now defines Palestinian privately-owned land as:

- Land that was registered and recognized as private property before 1968, at a time when the process of land registration was still open and available to Palestinians, or
- Cultivated land which has been continuously cultivated and recognized by the GOI as private land according to Ottoman law.

¶7. (C) A few examples of settlements established before the 1979 Elon More HCJ precedent include:

- Rimonim, 100 percent built on Palestinian land;
- Bet El, 97 percent built on Palestinian land;
- Migdal Oz, 96 percent built on Palestinian land;
- Ofra, 93 percent built on Palestinian land;
- Mechora, 90 percent built on Palestinian land;
- Ma'ale Adummim, 86 percent built on Palestinian land;
- Elazar, 86 percent built on Palestinian land;
- Mechola, 84 percent built on Palestinian land;
- Shavei Shomeron, 56 percent built on Palestinian land; and
- Qedumim, 48 percent built on Palestinian land (Note: Percentages are rounded to the nearest whole number. End note.)

Methodology

¶8. (C) Peace Now cross-referenced the Civil Administration data detailing land ownership -- state, Palestinian-owned, survey, and Jewish-owned -- against the land area occupied by each settlement to determine the ownership status of settlement land. In calculating the data, Peace Now also included the majority of the outposts in the area of a settlement, since outposts serve an integral role in determining the amount of land a settlement controls.

¶9. (C) Peace Now defines the boundaries of each settlement and outpost in the West Bank using: settlement built-up area; open areas that have been developed; areas fenced in by a partial or complete perimeter fence; perimeter lighting; and ring roads that have been built around the settlements.
(Note: The boundaries of each settlement defined by Peace Now is smaller than official municipal boundaries, which usually allot a greater amount of land to a settlement to accommodate future growth. End note.)

Successive Governments Violating Domestic Law

¶10. (C) While Peace Now's report is a striking criticism of the GOI role's for over four decades in supporting the growth of the settlement enterprise, it comes as no surprise to emboffs that settlement construction is occurring on Palestinian-owned land. The 2005 Sasson report on unauthorized outpost construction indicates that 15 outposts are built on Palestinian-owned land, seven outposts are constructed on survey land, and 39 outposts are located on "mixed" land -- part survey, state, and Palestinian-owned land.

¶11. (C) The Peace Now report is further evidence of the extent to which the GOI supported illegal settlement construction. Even after the HCJ ruled in the 1979 Elon More case that it is illegal to build settlements on Palestinian land, the Peace Now data denotes examples where the GOI continued to build settlements on Palestinian land in violation of its own domestic law. Some examples of settlements established after 1979 on Palestinian land include:

-- Bet Hanotzrim, 100 percent built on Palestinian land;
-- Psagot, 76 percent built on Palestinian land;
-- Alfe Menashe and Nirit, 90 percent built on Palestinian land;
-- Ma'ale Mickhmas, 81 percent built on Palestinian land;
-- Menorah, 75 percent built on Palestinian land; and
-- Elon More, 65 percent built on Palestinian land

Comment

¶12. (C) Embassy has already voiced our concern to the GOI about recent reports detailing ongoing settler construction on Palestinian-owned land in the West Bank. If accurate, these allegations would undermine the GOI's commitments to the USG on settlements. We will continue to press the GOI to share their data on settler sites on Palestinian land.

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JONES